

AFFIDAVIT OF NAKAJIMA

AFFIDAVIT OF HIDEYUKI NAKAJIMA

1 CITY AND COUNTY OF SAN FRANCISCO)
2) ss.
3 STATE OF CALIFORNIA)

4 Hideyuki Nakajima, being duly sworn, states as follows:

5 1. I am Director of International Marketing of Namco,
6 Limited ("Namco"), a Japan corporation, and I have held such
7 position for approximately one year. I am also president of
8 Namco America, Inc., a subsidiary of Namco located in Sunnyvale,
9 California, and have held such position since Namco America,
10 Inc. was formed in 1978. I spend the bulk of my working time
11 based in Japan.

12 2. In my positions with Namco and Namco America,
13 Inc., I am familiar with the development and marketing of that
14 certain electronic video game known as GALAXIAN.

15 3. GALAXIAN was developed solely by employees of
16 Namco working in Namco's research and development department.
17 A prototype of the game was manufactured in Japan for testing
18 purposes in approximately May, 1979. After a testing period
19 during which the prototype was studied and modified, the
20 decision to go into production of GALAXIAN in Japan was made
21 by Namco in about June, 1979.

22 4. Before production of GALAXIAN could commence,
23 it was necessary for Namco to obtain the parts, inventory and
24 machinery required to manufacture the game. Namco invested a
25 substantial amount of money in the research and development of
26 GALAXIAN and in the parts, inventory and equipment necessary
27 to manufacture the product. Production began in about September,
28 1979.

- Complainant Exhibit 105 -

1 5. GALAXIAN is totally original with Namco and was
2 not copied from any other work. It embodies unique and distin-
3 tive features that do not appear on any prior video game with
4 which Namco is familiar.

5 6. In about the middle of September, 1979, GALAXIAN
6 was placed on the market in Japan and a number of units were
7 then sold, rented or otherwise distributed and made available
8 to the public. Between September and December, 1979 thousands
9 of GALAXIAN units were sold, rented or otherwise publicly
10 distributed by Namco in Japan.

11 7. Advertising brochures for GALAXIAN were created
12 entirely by Namco and were not copied from any other source.
13 True and correct copies of the brochures are appended as Exhibi-
14 "A." The brochures were distributed in Japan by mail and other-
15 wise beginning with the distribution of the GALAXIAN machines
16 in about the middle of September, 1979. Thousands of copies
17 of the brochures have been disseminated to this date.

18 8. I attended the Japan Amusement Association trade
19 show in Tokyo on October 17-19, 1979 and was in attendance
20 throughout. Namco had a large booth at the show at which
21 approximately 20 operating GALAXIAN machines were displayed.
22 Hundreds of Namco personnel manned the Namco booth from time to
23 time in an effort to introduce GALAXIAN to the trade.

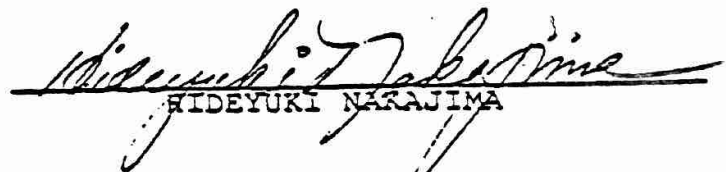
24 9. Universal Co., Ltd. ("Universal"), defendant in
25 the action for which this Affidavit is made, operated a booth
26 across the aisle from Namco's at the Tokyo show. The GALAXIAN
27 games were open to view by Universal. Indeed, the purpose of
28 the show was to exhibit new products to the trade as widely as

1 possible. There were many Universal employees in attendance at
2 the show. No COSMIC ALIEN machine was shown at the Tokyo trade
3 fair, nor were there advertisements for such a product.

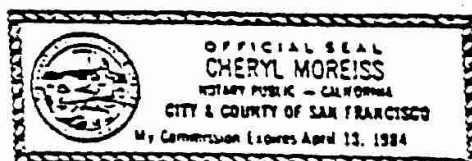
4 10. The GALAXIAN advertising brochures described in
5 paragraph 7 above were widely distributed by Namco at the Tokyo
6 show.


7 11. I attended the Amusement and Music Operators of
8 America trade show in Chicago, Illinois on November 9-11, 1979.
9 Namco and Midway Mfg. Co. displayed and demonstrated GALAXIAN
10 at the Chicago show. Again Universal had space at the show and
11 was able to view the GALAXIAN machines in operation. Neither
12 COSMIC ALIEN nor any advertisements therefor were present at
13 the show in Chicago.

14 12. Neither Namco nor Namco America, Inc. has ever
15 authorized, licensed or consented to the manufacture, sale or
16 other commercial use of GALAXIAN or any GALAXIAN advertising
17 in the United States by Universal or any other person or entity
18 except Midway Mfg. Co.

19
20 
21 HIDEYUKI NAKAJIMA

22 Subscribed and sworn to before me this 14th day of May, 1980
23 at San Francisco, California.




Notary Public in and For The City
and County of San Francisco